



UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
BUREAU OF SPORT FISHERIES AND WILDLIFE
WASHINGTON, D.C. 20240

Memorandum

JAN 29 1970

To : The Solicitor
Assistant
From : Director

LA - Program
Wilderness

Subject: Acquisition Authority within Wilderness Areas

During the hearings on S.3014 which would authorize wilderness areas on several refuges, including Hart Mountain National Antelope Refuge, the question was raised as to how we intended to consolidate inholdings within the Hart Mountain Refuge. Our response was that we would acquire them by exchange.

We have discussed this matter with staff members of the Bureau of Outdoor Recreation and it has been indicated that under Section 6(a)(1), of the Land and Water Conservation Fund Act (16 U.S.C. 460 1-9 (1)), moneys can be made available for acquisition of land for "...areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes." The Wilderness Act (16 U.S.C. 1133(b) states "wilderness areas shall be devoted to the public purposes of recreation. . . .use." BOR considers that areas in wilderness status are administered for outdoor recreation purposes so long as nothing in a specific Act prohibits recreational use. Therefore, they are agreeable to the allocation of Land Water Conservation Fund moneys for acquisition of inholdings within wilderness areas on refuges.

We request your opinion whether enactment of S.3014 or similar legislation to authorize administration of a specific area for wilderness purposes constitutes sufficient implied authorization so that land could be acquired within that area if Land and Water Conservation Funds were appropriated for this purpose.

-Opinion Follows-

January, 1970

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WILDLIFE REFUGES

APPENDIX



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

22391.2564

Memorandum

JAN 30 1970

To: Director, Bureau of Sport Fisheries and Wildlife
Attention: Assistant Director, Noble Buell
From: Assistant Solicitor, Fish and Wildlife
Subject: Acquisition Authority Within Wilderness Areas

Your memorandum of January 29, 1970 inquires whether or not Land and Water Conservation Funds, made available under Section 6(a)(1) of the Act (16 U.S.C. 460L-9(1)) can be used for the purchase of lands within Wilderness Areas upon the theory that such wilderness area is a recreation area under the proposed uses of wilderness areas described in 16 U.S.C. 1133 (b).

Our opinion is that if an area is lawfully adopted as a wilderness area by Congressional Act, there is then sufficient authority to use such funds, if available, for such purposes, providing there is no restriction in the legislation with respect to the use of the area for recreation or to the use of such funds for such purposes.

Charles H. Vaughn
Assistant Solicitor
Fish and Wildlife

APPENDIX



UNITED STATES
DEPARTMENT OF THE INTERIOR
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BUREAU OF SPORT FISHERIES AND WILDLIFE
WASHINGTON, D.C. 20240

FEB 10 1970

Memorandum

To: Assistant Solicitor, Fish and Wildlife
From: Assistant Director
Subject: Acquisition authority within wilderness areas

This relates to my recent telephone conversation with you about your memorandum of January 30 (your file: 22391.2564).

Our question, as we intended to ask it in our memorandum of January 29, was not whether Land and Water Conservation Fund moneys can be used for purchase of Lands within wilderness areas. This question has been answered affirmatively by the Bureau of Outdoor Recreation.

Our question is whether enactment of S. 3014 or similar legislation to authorize administration of a specific area for wilderness purposes constitutes sufficient implied authorization to acquire land within that area, regardless of the source of funds. Your views on this question will be appreciated.

-Opinion Follows-

APPENDIX



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

25318.2553

FEB 2 1970

Memorandum

To: Director, Bureau of Sport Fisheries and Wildlife
Attention: Assistant Director, Noble Buell

From: Assistant Solicitor, Fish and Wildlife

Subject: Acquisition Authority Within the Wilderness Areas

A review of our memorandum on this subject of January 30, 1970 discloses that we omitted to answer one phase of your question, as you point out in your memorandum of February 10, 1970.

While we reaffirm what was said in our memorandum of January 30, 1970, we recognize that 16 U.S.C. 460L-9(b) prohibits the use of appropriations from the fund referred to for acquisitions unless otherwise authorized by law. Likewise the Wilderness Act, 16 U.S.C. 1131 et seq., does not authorize such acquisitions except within wilderness areas created out of national forest lands.

Our answer, then, to your memorandum of February 10, 1970 is that enactment of S. 3014 or similar legislation to authorize administration of a specific area for wilderness purposes does not, in and of itself, constitute implied authorization to acquire land within that area, regardless of the source of funds.

Charles H. Vaughn
Charles H. Vaughn
Assistant Solicitor
Fish and Wildlife